

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Figures 5 and 6. This sheet, which includes Figures 5-7, replaces the original sheet including Figures 5-7. In Figure 5, previously omitted element 22 has been added. In Figure 6, previously omitted element 20 has been added, while one usage of reference numeral 24 has been replaced with reference numeral 34.

Attachment:            Replacement Sheet  
                             Annotated Sheet Showing Changes

### **REMARKS**

Favorable consideration and allowance of the present application are respectfully requested in view of the foregoing amendments and the following remarks.

With this Amendment, claims 17, 19, 21, 23-26, 31, 34-37, 39-42, and 44-50 are pending in the present application, including independent claims 17, 40, and 46. Claims 17, 19, 20, 22, 26, 38-41, 43, and 46-48 are being amended in this paper, while claims 18 and 35 are being cancelled. Claims 20, 22, 32, 33, 38, and 43 have been withdrawn from consideration.

As an initial matter, several restriction requirements were discussed and made final at pages 2-3 of the Office Action. Accordingly, the listing of claims provided in this Amendment reflects that claims 20, 22, 32, 33, 38, and 43 have been withdrawn from consideration.

Additionally, at pages 3-4 of the Office Action, the drawings were objected to under 37 C.F.R. § 1.83(a). The Examiner stated the following: "The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claim 24, e.g., where is the laminate of film and nonwoven shown?, must be shown or the feature(s) canceled from the claim(s)."

Applicants respectfully submit that the drawings currently on file comply with the requirements of 37 C.F.R. § 1.83(a), which states in relevant part:

The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).

Claim 24 currently recites: "The composite of Claim 23, wherein the highly breathable laminate is a film/nonwoven laminate," while the "highly breathable laminate" refers to a material that may comprise the **backsheet** of the claimed composite. (See claim 23). In Figures 1-2 and 5-6, **backsheet 20** is clearly included as a labeled feature of those drawings, and at page 18, in the second full paragraph, Applicants state:

In a particular embodiment, the **backsheet 20** is provided by a highly breathable laminate and more particularly by a microporous film/nonwoven laminate material comprising a spunbond nonwoven material laminated to a microporous film. . . . Examples of such film/nonwoven laminate materials are described in more detail in U.S. Patent No. 6,309,736 issued October 30, 2001 in the name of McCormack, et al. and entitled "Low Gauge Films And Film/Nonwoven Laminates," the disclosure of which has been incorporated by reference.

Applicants respectfully submit that the drawings already fulfill the requirements of 37 C.F.R. § 1.83(a) because (1) backsheet 20 is already shown as a feature in the figures and (2) the figures need not show a representation of each type of conventional material that may comprise backsheet 20, since a detailed illustration of such types of material is not essential for a proper understanding of the invention. Therefore, Applicants respectfully submit that the objections to the drawings have been overcome.

Claims 17-19, 21, 23-26, 31, 34-37, 39 and 47 were objected to at page 4 of the Office Action because of certain informalities. Applicants respectfully submit that the claims as amended herein overcome such objections.

In the Office Action, independent claims 17, 40, and 46 were all rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,527,300 to Sauer in view of U.S. Patent No. 5,575,785 to Gryskiewicz, et al.

Applicants respectfully submit that all of the claims as amended and presented herein define over any combination of the art of record utilizing Sauer '300 as the base

reference. Sauer is directed to an absorbent article having a back sheet layer, an absorbent retention portion, and a liquid permeable top sheet layer superposed on the retention portion. A liquid permeable surge management portion is located adjacent to the top sheet layer and includes a contracting means configured to shorten either a length dimension or a width dimension of the surge management portion of the article. Referring to the various figures of Sauer '300, the retention portion 48 is position in liquid communication with the surge management portion 46 to receive liquids released from the surge management portion. As stated at column 16, lines 44 through 49, the surge management portion serves to quickly collect and temporarily hold discharged liquids, to transport such liquids from the point of initial contact and spread the liquid to other parts of the surge management portion, and then to substantially and completely release such liquids into the retention portion 48. The contraction means is described as a plurality of contractible members 80 and 88 connected to the surge management portion 46. The contractible members may be an elastomeric material, and impart to the surge material 46 a corrugated appearance with regular or irregular "hills and valleys". Contraction of the surge management portion 46 increases the effective basis weight and thickness of the surge management material.

The function of the surge management portion 46 in the article according to Sauer '300 is clearly established in the reference as a material that "quickly collects and temporarily holds discharged liquids, and substantially completely releases such liquids into the layer or layers comprising the retention portion 48." As known to those skilled in the art, this is the common usage and understanding of a surge layer. Regardless of the materials used to compose the surge layer, the layer must have the ability to quickly

intake fluids, temporarily hold the fluids, and then release the fluids into an underlying absorbent material. Thus, it should be readily understood that liquids pass into and are retained by the surge material, and are not repelled by the surge material.

The function and composition of the “undulation of resilient material” set forth in independent claims 17, 40, and 46 of the present application are opposite from the corrugated surge material layer disclosed in Sauer ‘300. For example, as amended and presented herein, independent claim 17 calls for at least one undulation of resilient material located between the back sheet and the top sheet above the absorbent body. The undulation of resilient material has an elevation and cross-sectional profile with substantially liquid impermeable sloped surfaces so as to direct fluids downwardly along the sloped surfaces of the undulation to the underlying absorbent body without the liquid passing through or being retained by resilient material. The undulation of resilient material does not take in, hold, and subsequently release the liquid, but rather directs the liquid down sloped surfaces to the underlying absorbent. The liquid does not pass into the undulation of resilient material. The undulation of resilient material serves to direct fluids to one or more portions of the absorbent article.

Independent claims 40 and 46 have been amended to contain limitations similar to those discussed above with respect to claim 1. Accordingly, applicants respectfully submit that the independent claims 17, 40, and 46 patentably distinguish over any combination of the art of record utilizing Sauer ‘300 as the base reference.

The dependent claims were also rejected using the above-discussed references, some further in view of U.S. Patent No. 5,879,341 to Odorzynski, et al. Applicants respectfully submit that at least for the reasons indicated above relating to independent

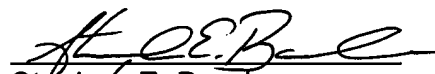
claims 17, 40, and 46, the dependent claims patentably define over the references cited. However, Applicants also note that the patentability of the dependent claims does not necessarily hinge on the patentability of independent claims 17, 40, and 46. In particular, some or all of the dependent claims are believed to possess features that are independently patentable, regardless of the patentability of independent claims 17, 40, and 46.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Reichle is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

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